

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
ON APPEAL FROM THE EXAMINER TO THE BOARD  
OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Jonathan Dale  
Serial No: 10/608,876  
Date Filed: June 27, 2003  
Group Art Unit: 3628  
Examiner: Fadey S. Jabr  
Confirmation No. 7466  
Title: DYNAMIC SERVICE SCHEDULING

**Mail Stop Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**REPLY BRIEF**

Appellants have appealed to this Board from the decision of the Examiner, contained in a final Office Action mailed September 15, 2008 ("*Final Office Action*"), and the Advisory Action mailed January 13, 2009 ("*Advisory Action*"), finally rejecting Claims 1-31. Appellants mailed a Notice of Appeal on January 15, 2009 and filed an Appeal Brief on March 16, 2009. The Examiner responded in an Examiner's Answer mailed April 30, 2009 ("*Examiner's Answer*"). Appellants respectfully submit this Reply Brief.

### **ARGUMENT**

In the *Appeal Brief*, Appellants explained in detail why Claims 1-31 are allowable over the references cited by the Examiner in the *Final Office Action*. Appellants have carefully reviewed the *Examiner's Answer*. However, Appellants continue to submit that the cited references do not disclose, teach, or suggest the combination of elements recited in Appellants' claims. For the reasons discussed below, Appellants respectfully submit that these rejections continue to be improper and should be reversed by the Board.

#### **Appellant's Claims are Directed to Statutory Subject Matter**

In the *Appeal Brief*, Appellants demonstrated that Claims 11-20 are directed to statutory subject matter under 35 U.S.C. § 101. In the Examiner's answer, the Examiner continues to focus on specific elements of the claims, while ignoring the overall structure and other elements particularly identified in the Appeal Brief. See, e.g., *Examiner's Answer*, p. 7. As discussed more fully in the Appeal Brief, Appellants' Claim 11 is directed to a "consumer system" that includes, at a minimum, a database, an interface, and an agent, which are described in Appellants' specification as "incorporated in and/or provided by any suitable network accessible equipment." Specification, p. 12. Claim 11 is therefore tied to a machine within the requirements of § 101. For this simple reason, Appellants maintain that the Examiner's rejections under § 101 must fail.

#### **Appellant's Claims are Allowable over the Cited References**

In the Appeal Brief, Appellants demonstrated that *Rose* and *Sobalvarro*, whether taken alone or in combination, fail to teach or suggest: (1) identifying a template specifying a plurality of events; and (2) modifying the template to associate the service links with the events, as Claim 1 requires.

##### **A. *Rose* and *Sobalvarro* fail to teach or suggest identifying a template specifying a plurality of events.**

In the *Appeal Brief*, Appellants demonstrated that *Rose* fails to teach or suggest "identifying a template specifying a plurality of events," as Claim 1 requires, and that *Sobalvarro* fails to remedy the deficiencies of *Rose*. In response, the Examiner again points to figures 5A and 6A of *Rose*. *Examiner's Answer*, p. 7.

With respect to figure 5A, the Examiner now clarifies that he believes the plurality of events are shown by, for example, "eCuisine, eBanquet, eB&B, etc." *Id.* As noted in the Appeal Brief, however, these are not events, they are links to other web pages. For example,

“eCuisine” “provides a link to the restaurant super-community” web page. *Rose*, ¶ 53. A link to a separate web page “super-community” is not an event as claimed or described by Appellants. For example, Appellants’ specification distinguishes events from links, reciting: “This process may begin with a template loosely specifying a sequence of events and preferences for the events. . . . In the end, plan processing engine 50 attempts to generate a schedule that links to remote services 18 for fulfilling tasks and subtasks specified for the schedule.” Specification at p. 12, ll. 31 - p. 13, ll. 8.

With respect to figure 6A, the Examiner now asserts that this figure “discloses a restaurant search template which allows for a finer search of services and events.” *Examiner’s Answer*, p. 7. The Examiner adds that “identifying a template specifying a plurality of events, is merely displaying a webpage disclosing several types of events, as disclosed by *Rose*.” This conclusory language ignores the fact figure 6A of *Rose* **does not show any events**. As noted in the Appeal Brief, restaurants are not events. The Specification makes that clear. Specification at p. 16, ll. 3-7.

*Rose* does not, as the Examiner asserts, teach or suggest “identifying a template specifying a plurality of events.” For at least this reason, Appellants respectfully request that the Board reverse the Examiner’s rejections of Claims 1, 11, 21, and 31, and their respective dependent claims.

**B. *Rose* and *Sobalvarro* fail to teach or suggest modifying the template to associate the service links with the events.**

In the *Appeal Brief*, Appellants demonstrated that the claims are patentably distinct from the cited references because neither reference teaches or suggests “modifying the template to associate the service links with the events.” Rather than address this substantive deficiency head on, the Examiner’s Answer focuses on Appellants’ point that the references teach away from a combination.<sup>1</sup> Even assuming that the Examiner is correct that the references should be combined, they still do not teach or suggest the element at issue.

As pointed out in the Appeal Brief, *Sobalvarro*’s “package displays” are fixed offerings that combine multiple travel options (e.g., transportation, hotel, and show tickets). As showing modifying one of *Sobalvarro*’s package displays, the Examiner appears to point the ability for a customer to select “upgrades” or “adding option components.” *Examiner’s*

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<sup>1</sup> For example, *Sobalvarro* teaches groupings of offerings from multiple vendors, which directly conflicts with *Rose*’s teaching of a direct marketing system that allows individual vendors to directly interact with buyers.

*Answer*, p. 9 (see bolded text). However, as *Sobalvarro* makes clear, “optional” components are simply a part of a fixed offering. For example, see figure 10 of *Sobalvarro*, which presents a package with two optional components that are a part of the fixed offering.

Regardless, even assuming that selecting to include optional components shows a modification of *Sobalvarro*’s package offering, it does not show any association of a service link with any events. To help understand the distinction, consider an example of association of a service link as described in Appellants’ specification. As an example of a service, the specification describes a SABRE-enabled airline reservation system. Specification, p. 6. It also describes an iterative process through which a template can be modified to associate services (such as SABRE-enabled airline reservation system) with a particular event in that template. Specification, p. 8. *Sobalvarro* does not teach or suggest any such process of modifying a template to associate service links with events as claimed.

For at least these reasons, *Rose* and *Sobalvarro*, whether taken alone or in combination, fail to teach or suggest (1) identifying a template specifying a plurality of events, and (2) modifying the template to associate the service links with the events,” as Claim 1 recites. Independent Claims 11, 21, and 31 include limitations that, for substantially similar reasons, are not taught by *Rose* and *Sobalvarro*. Because *Rose* and *Sobalvarro* do not teach or suggest every element of independent Claims 1, 11, 21, and 31, Appellants thus respectfully request that the Board reverse the Examiner’s rejections of Claims 1, 11, 21, and 31, and their respective dependent claims.

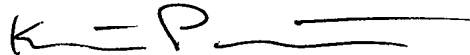
**CONCLUSION**

Appellants have demonstrated that the present invention, as claimed, is patentable over the references cited by the Examiner. Therefore, Appellants respectfully request the Board to reverse the final rejection and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

Although Appellants believe no fees are due, the Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS, L.L.P.  
Attorneys for Appellants

A handwritten signature in black ink, appearing to read 'K-P', followed by a horizontal line.

Kurt M. Pankratz  
Registration No. 46,977

Date: June 30, 2009

Customer Number: **05073**